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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: H-3707.1/08

ATTY/TYPIST: AI:cro

BRIEF DESCRIPTION: Ensuring that all registered sex offenders have submitted a biological sample for inclusion in the DNA identification system.

1       AN ACT Relating to ensuring that all registered sex offenders have  
2 submitted a biological sample for inclusion in the DNA identification  
3 system; and amending RCW 43.43.754.

4       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       **Sec. 1.** RCW 43.43.754 and 2002 c 289 s 2 are each amended to read  
6 as follows:

7       (1) Every adult or juvenile individual convicted of a felony,  
8 stalking under RCW 9A.46.110, harassment under RCW 9A.46.020,  
9 communicating with a minor for immoral purposes under RCW 9.68A.090, or  
10 adjudicated guilty of an equivalent juvenile offense, and every adult  
11 or juvenile individual who is required to register as a sex offender on  
12 or after the effective date of this section, must have a biological  
13 sample collected for purposes of DNA identification analysis in the  
14 following manner:

15       (a) For persons convicted of such offenses or adjudicated guilty of  
16 an equivalent juvenile offense who do not serve a term of confinement  
17 in a department of corrections facility, and do serve a term of  
18 confinement in a city or county jail facility, the city or county shall  
19 be responsible for obtaining the biological samples either as part of

1 the intake process into the city or county jail or detention facility  
2 for those persons convicted on or after July 1, 2002, or within a  
3 reasonable time after July 1, 2002, for those persons incarcerated  
4 before July 1, 2002, who have not yet had a biological sample  
5 collected, beginning with those persons who will be released the  
6 soonest.

7 (b) For persons convicted of such offenses or adjudicated guilty of  
8 an equivalent juvenile offense who do not serve a term of confinement  
9 in a department of corrections facility, and do not serve a term of  
10 confinement in a city or county jail facility, the local police  
11 department or sheriff's office is responsible for obtaining the  
12 biological samples after sentencing on or after July 1, 2002.

13 (c) For persons convicted of such offenses or adjudicated guilty of  
14 an equivalent juvenile offense, who are serving or who are to serve a  
15 term of confinement in a department of corrections facility or a  
16 department of social and health services facility, the facility holding  
17 the person shall be responsible for obtaining the biological samples  
18 either as part of the intake process into such facility for those  
19 persons convicted on or after July 1, 2002, or within a reasonable time  
20 after July 1, 2002, for those persons incarcerated before July 1, 2002,  
21 who have not yet had a biological sample collected, beginning with  
22 those persons who will be released the soonest.

23 (2) Any biological sample taken pursuant to RCW 43.43.752 through  
24 43.43.758 may be retained by the forensic laboratory services bureau,  
25 and shall be used solely for the purpose of providing DNA or other  
26 tests for identification analysis and prosecution of a criminal offense  
27 or for the identification of human remains or missing persons. Nothing  
28 in this section prohibits the submission of results derived from the  
29 biological samples to the federal bureau of investigation combined DNA  
30 index system.

31 (3) The director of the forensic laboratory services bureau of the  
32 Washington state patrol shall perform testing on all biological samples  
33 collected under subsection (1) of this section, to the extent allowed  
34 by funding available for this purpose. The director shall give  
35 priority to testing on samples collected from those adults or juveniles  
36 convicted of a felony or adjudicated guilty of an equivalent juvenile  
37 offense that is defined as a sex offense or a violent offense in RCW  
38 9.94A.030.

1       (4) This section applies to all adults who are convicted of a sex  
2 or violent offense after July 1, 1990; and to all adults who were  
3 convicted of a sex or violent offense on or prior to July 1, 1990, and  
4 who are still incarcerated on or after July 25, 1999. This section  
5 applies to all juveniles who are adjudicated guilty of a sex or violent  
6 offense after July 1, 1994; and to all juveniles who were adjudicated  
7 guilty of a sex or violent offense on or prior to July 1, 1994, and who  
8 are still incarcerated on or after July 25, 1999. This section applies  
9 to all adults and juveniles who are convicted of a felony other than a  
10 sex or violent offense, stalking under RCW 9A.46.110, harassment under  
11 RCW 9A.46.020, or communicating with a minor for immoral purposes under  
12 RCW 9.68A.090, or adjudicated guilty of an equivalent juvenile offense,  
13 on or after July 1, 2002; and to all adults and juveniles who were  
14 convicted or adjudicated guilty of such an offense before July 1, 2002,  
15 and are still incarcerated on or after July 1, 2002.

16       (5) This section creates no rights in a third person. No cause of  
17 action may be brought based upon the noncollection or nonanalysis or  
18 the delayed collection or analysis of a biological sample authorized to  
19 be taken under RCW 43.43.752 through 43.43.758.

20       (6) The detention, arrest, or conviction of a person based upon a  
21 database match or database information is not invalidated if it is  
22 determined that the sample was obtained or placed in the database by  
23 mistake, or if the conviction or juvenile adjudication that resulted in  
24 the collection of the biological sample was subsequently vacated or  
25 otherwise altered in any future proceeding including but not limited to  
26 posttrial or postfact-finding motions, appeals, or collateral attacks.

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